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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,641	01/07/2005	Jean Fernand Armand LaCrampe	JAB 1702 US WO	9537

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EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/520,641

Applicant(s)

LACRAMPE ET AL.

Examiner

Venkataraman Balasubramanian

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/7/2005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

The preliminary amendment, which included addition of new claims 12-19, cancellation of claims 9-10 and amendment to claims 4-8 and 11, filed on 1/7/2005, is made of record. Claims 1-8 and 11-19 are now pending.

Information Disclosure Statement

References cited in the Information Disclosure Statement filed on 1/7/2005, are made of record.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 and 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Any claim not specifically rejected is rejected as it is dependent on a cancelled claim and shares the same indefiniteness.

1. Recitation of "the N-oxides forms, the pharmaceutically acceptable addition salts and stereochemically isomeric forms thereof" in claim 1 renders claim 1 and its dependent claims 2-8 and 11-19 indefinite as it is not clear whether claim 1 is compound claim or a composition claim containing the above said forms and salts. Not Markush recitation should be in alternate and in singular.
2. Regarding claims 2-6 and 12-19, the term "preferably" which appears at various places in the definition of variable groups renders these claims indefinite because

it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

3. Claims 2-6 and 14-19 are indefinite as the recite variation in substituents in the phenyl ring but do not recite the value of m and n. It is not clear how to apply prior art to these claims. For the present it is assumed that m and n can also be zero.
4. The process claim 11 is indefinite as it is not clear what is the definition of Q. There is no definition of Q in the claim and hence it is not possible to make a scope of enablement rejection when in compatible functional groups were present. For example, the process entails refluxing in presence of acetic anhydride as well as use of acetic acid. The alkoxycarbonyl groups used as substituents are known under go hydrolysis and this may lead to unwanted N-nitrosation.

Allowable Subject Matter

Claims 1-8 and 11-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Said claims would be allowable, barring any new 112 first paragraph issues, as prior art search in the related area did not teach or suggest the furanyl bearing toxoflavine compounds, composition or process of making.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661.

The fax phone number for the organization where this application or proceeding is assigned (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).


Venkataraman Balasubramanian

9/18/2006